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### **TITLE 9**

#### **Land Use Code**

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## **TITLE 9**

### **Land Use Code**

#### **Chapter 8 Intensity Standards<sup>1</sup>**

##### **9-8-1. Schedule of Intensity Standards.**

The purpose of this chapter is to indicate the requirements for the allowed intensity of all types of development, including maximum density for residential developments based on allowed number of units and occupancy. All primary and accessory structures are subject to the standards set forth in table 8-1 of this section. No person shall use any land within the city authorized by chapter 9-6, "Use Standards," B.R.C. 1981, except according to the following requirements unless modified through a use review under section 9-2-15, "Use Review," B.R.C. 1981, or a site review under section 9-2-14, "Site Review," B.R.C. 1981, or granted a variance under section 9-2-3, "Variances and Interpretations," B.R.C. 1981.

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<sup>1</sup> Adopted by Ordinance no. 7476.

**TABLE 8-1: INTENSITY STANDARDS**

Intensity District	Minimum Lot Area (in square feet unless otherwise noted)	Minimum Lot Area Per Dwelling Unit (square feet)	Maximum Number or Dwelling Units Per Acre	Minimum Open Space Per Dwelling Unit	Minimum Open Space on Lots (Residential Uses)	Minimum Open Space on Lots (Nonresidential Uses)(a)	Minimum Private Open Space (Residential Uses)	Maximum Floor Area Ratio
				See section 9-9-11 for additional open space requirements. For mixed use developments, use the requirements of either the residential or nonresidential standards that result in the greatest amount of open space				
1	5 acres	5 acres	0.2	0	–	10 - 20%	0	0
2	30,000	30,000	1.4	0	–	10 - 20%	0	0
3	15,000	15,000	2.9	0	–	10 - 20%	0	0
4	7,000	7,000	6.2	0	–	10 - 20%	0	0.8:1
5	7,000	7,000	6.2	0	–	10 - 20%	0	0
6	0	0	-	6,000	–	10 - 20%	0	0
7	6,000	6,000	7.3	600	–	10 - 20%	0	0
8	0	0	10 (up to 20 by review)	0	15%	15%	60	0
9	0	0	–	3,000	–	10 - 20%	0	0
10	0	0	–	600	–	10 - 20%	60	0.5:1
11	7,000	0	–	0	–	10 - 20%	60	0.5:1
12	0	0	–	1600	–	10 - 20%	0	0
12.5	6,000	3,200	13.6	600	–	10 - 20%	0	0
13	6,000	3,500	14.5	–	–	10 - 20%	0	0
14	0	0	–	0	60%	60%	60	0
15	0	0	–	1,200	–	10 - 20%	0	0
16	0	0	–	0	40%	10 - 20%	60	0
17	0	0	–	0	15%	15%	60	0.67 (1.85 if within CAGID or UHGID)
18	0	0	–	0	15%	15%	60	0.6:1
19	6,000	1,600	27.2	600 (400 by site review if in a mixed use development)	–	10 - 20%	0	0
20	7,000	1,600	27.2	600	40% (20% if within a park service area)	10 - 20%	60	0.4:1
21	6,000	1,600	27.2	600	–	10 - 20%	0	0.5:1

22	7,000	1,600	27.2	600	40% (20% if within a park service area)	10 - 20%	60	0.5:1
23	6,000	1,600	27.2	0	-	10 - 20%	0	2.0:1
24	0	0	-	0	15%	15%	60	1.0:1
25	0	0	-	0	-	10 - 20%	60	1.0:1
26	0	0	-	0	-	10 - 20%	60	1.5:1
27	0	0	-	0	-	10 - 20%	60	1.7:1
28	-	-	-	-	-	10 - 20%	-	-

Footnotes:

- (a) This requirement may increase based on building height pursuant to subsection 9-9-11(c), B.R.C. 1981.
- (b) For the RH-1 zoning district (former HR-X) the minimum lot area (in square feet unless otherwise noted) is 5,000 square feet.
- (c) For the RH-1 zoning district (former HR-X) the minimum lot area is 1,600 square feet.

Ordinance No. 7522 (2007); 7571 (2007); 7577 (2007)



### **9-8-2. Floor Area Ratio Requirements.**

- (a) Purpose: The purpose of the floor area ratio requirements is to limit the impacts of the use that result from increased building size.
- (b) Maximum Floor Area Ratio: The maximum floor area ratio on a lot or parcel shall be the greatest of the following:
  - (1) The floor area set forth in section 9-7-1, "Schedule or Form and Bulk Standards," B.R.C. 1981;
  - (2) The floor area approved prior to June 3, 1997, as part of a valid existing or unexpired planned development (PD), planned residential development (PRD), planned unit development (PUD) or a site review; or
  - (3) The floor area on the lot or parcel on June 3, 1997.
- (c) Registration and Calculation of FAR for Existing Buildings: Building floor area on a lot or parcel that exceeds the floor area ratio set forth in section 9-7-1, "Schedule or Form and Bulk Standards," B.R.C. 1981, may be registered with the city manager by June 16, 1998. The city manager shall determine the type of information necessary to verify the floor area. If such floor area is not registered within one year, the floor area of the lot or parcel shall be the greater of the following:
  - (1) The floor area ratios for the underlying zoning district;
  - (2) The floor area on the lot or parcel on June 3, 1997, according to city building records or county assessor records.

Upon a determination that an error exists in the calculation of the floor area under paragraph (c)(2) of this section, the city manager will correct such error.

- (d) Calculating Floor Area Ratios and Floor Area Ratio Additions: The floor area ratio shall be calculated based on all buildings on a lot, except as indicated by table 8-2 of this section. Areas not included in the floor area ratio calculation are considered a "floor area ratio addition."

**TABLE 8-2: FLOOR AREA RATIO ADDITIONS**

	DT-1	DT-2	DT-3	DT-4	DT-5	MU-1	MU-2	MU-3	BT-2	BMS	IS-1/2	IG	IM	IMS	BR-1 (c)
Base FAR	1.0	1.5	1.7	1.7	1.7	0.6	0.6	1.0	0.5	0.67 (a)	0.5	0.5	0.4	0.6	n/a
Maximum total FAR additions (FAR)	1.0	0.5	1.0	0.5	1.0	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
FAR addition components:	0.5	0.5	0.5	0.5	0.5 (b)	0	0	0	0	0	0	0	0	0	n/a
1) Residential floor area (FAR)															
2) Residential floor area if at least 35% of units are permanently affordable and at least 50% of total floor area is residential (FAR)	0	0	0	0	0	0.07	0	0	0	0	0	0	0	0	n/a
3) Residential floor area for a project NOT located in a general improvement district that provides off-street parking	0	0	0	0	0	0	0	0	0	0.33	0	0	0	0	n/a
4) On-site parking provided entirely within the principal structure, or above grade parking structure	All, to max. of 0.5 FAR	All, to max. of 0.5 FAR	All, to max. of 0.5 FAR	0	All, to max. of 0.5 FAR	All	All	All	0	All	All	All	All	All	n/a
5) Below grade area used for occupancy	50% below grade area	50% below grade area	50% below grade area	50% below grade area	50% below grade area	0	0	0	All	50% below grade area	0	0	0	0	n/a
Maximum allowable FAR (sum of base plus all available additions)	2.0	2.0	2.7	2.2	2.7	0.67 + row 4 of this table	0.6 + row 4 of this table	1.0 + rows 4 and 5 of this table	0.5 + row 5 of this table	1.0 + rows 4 and 5 of this table	0.5 + row 4 of this table	0.5 + row 4 of this table	0.4 + row 4 of this table	0.6 + row 4 of this table	4.0 (c)

Footnotes:

- (a) FAR up to 1.85:1 if property is located in a general improvement district providing off-street parking.
- (b) 1.0 if parking bonus NOT used.
- (c) See subparagraph 9-2-14(h)(2)(J), B.R.C. 1981.

(e) District-Specific Standards:

- (1) Maximum Floor Area in RL-1: In the RL-1 district, the maximum floor area above a basement shall be a floor area ratio of 0.8:1. The floor area above the basement is all the floor area of all levels, not including a basement, but including fifty percent of the floor area of a partially exposed lower level of a detached single-family residential building in which less than fifty percent of the perimeter of the walls of that level are more than two feet above the adjacent grade, including, without limitation, walk-out levels or terrace levels. All of the floor area of a partially exposed lower level of a detached single-family residential building which exceeds two feet above grade for fifty percent or more of the perimeter of the walls shall be counted as floor area.
- (2) Maximum Floor Area in DT-2: In the DT-2 district, the maximum amount of residential floor area or detached garages or parking within a principal building that shall not be included in the FAR calculation shall be 0.5.
- (3) Floor Area Transfers in the DT-5 Zoning Districts: In the DT-5 district, floor area may be transferred from one lot or parcel to another lot or parcel, as provided for by this paragraph. Approval of a floor area transfer shall permit the transfer of the entire floor area bonus permitted by table 8-2 of this section to another lot or parcel and permit the same amount of unrestricted floor area to be constructed on the parcel from which the bonus floor area was sent. A floor area transfer will be approved if the approving authority finds that the following criteria have been met as a part of a site review approval pursuant to section 9-2-14, "Site Review," B.R.C. 1981:
  - (A) The lot or parcel from which the floor area is transferred is adjacent to, with a common boundary between the two lots or parcels. Adjacency shall not be affected by the existence of a public right-of-way;
  - (B) Both the sending and receiving lots or parcels are located in the same zoning district as the lot that will receive the additional floor area;
  - (C) The floor area on either lot or parcel does not exceed the floor area allowed, with floor area bonuses for each lot or parcel; and
  - (D) A phasing plan, that addresses the timing of the construction of all of the floor area is approved, that insures that the bonus floor area will be constructed prior to or concurrent with any unrestricted floor area that is transferred to another lot or parcel.
- (4) Floor Area Transfers in the MU-1 District: In an MU-1 zoning district, the floor area permitted by section 9-8-1, "Schedule or Intensity Standards," B.R.C. 1981, and this section may be transferred from one lot or parcel to another lot or parcel, in excess of the single lot requirements, if the approving authority finds that such transfer meets the site design criteria and is approved as part of a single site review application under section 9-2-14, "Site Review," B.R.C. 1981.
- (5) General Improvement Districts Providing Off-Street Parking: In the BMS district, the FAR may be increased up to 1.85 if the property is located in a general improvement district providing off-street parking.
- (6) BR-1 Districts: In the BR-1 district, the FAR may be increased pursuant to section 9-2-14, "Site Review," B.R.C. 1981.
- (7) Floor Area Transfers in the IG, IM, or IS Zoning Districts: In an IG, IM, or IS zoning district, floor area may be transferred to a lot or parcel in excess of the maximum floor area ratio set forth in table 8-2 of this section, if the approving authority finds that the following criteria have been met as a part of a site review approval pursuant to section 9-2-14, "Site Review," B.R.C. 1981:
  - (A) The lot or parcel from which the floor area is transferred is adjacent to and in the same zoning district as the lot that will receive the additional floor area; and
  - (B) The lot or parcel from which the floor area is transferred is vacant.

Ordinance Nos. 5623 (1994); 5930 (1997); 7079 (2000); 7117 (2001); 7210 (2002); 7351 (2004); 7484 (2006); 7522 (2007); 7535 (2007)

### **9-8-3 Density in the RH-1, RH-2 and RH-3 Districts.**

(a) Additional Density in the RH-1 District: In the RH-1 zoning district, the planning board may reduce the minimum open space per dwelling unit of one thousand six hundred square feet per dwelling unit to eight hundred square feet of open space per dwelling unit pursuant to site review approval.

(b) Additional Density in the RH-2 District: In the RH-2 zoning district, the planning board may reduce the minimum lot area of three thousand two hundred square feet per dwelling unit to one thousand six hundred square feet of lot area per dwelling unit pursuant to site review approval.

(c) Maximum Floor Area: In the RH-1 and RH-2 zoning districts, eight hundred square feet of floor area will be permitted for each dwelling unit in a development:

- (1) The floor area shall include all habitable area within the dwelling unit that is designed for or intended to be used for living, sleeping, eating, cooking, laundry, or personal storage.
- (2) The floor area does not include garages and common facilities. Common facilities are elements routinely used in multi-family projects which include, without limitation, hallways, stairs, and utility rooms that are shared by all occupants of a development.
- (3) The total floor area permitted in a development is the product of the number of allowed dwelling units multiplied by eight hundred, and such dwelling units and square footage may be configured in any way which produces a number equal to or less than such product.
- (4) Notwithstanding the provisions of section 1-1-22, "Rounding Rule," B.R.C. 1981, a fraction of a permitted unit allowed by the minimum lot area per dwelling unit requirement may be included in calculating the allowable floor area.

(d) Additional Density in the RH-3 District: In the RH-3 zoning district, the open space per lot may be reduced from sixty percent to thirty percent of the lot if at least half of the open space provided meets the open space requirements of paragraph 9-9-11(e)(3), B.R.C. 1981.

(e) Minimum Lot Area for Two Dwelling Units: Two attached units may be developed on a lot in the RH-1 and RH-2 districts without a site review if the lot is a minimum of five thousand square feet in area and the structures meet the setback requirements of section 9-7-1, "Schedule or Form and Bulk Standards," B.R.C. 1981, or the requirements of section 9-7-9, "Two Detached Dwellings on a Single Lot," B.R.C. 1981, are met.

(f) Exemption for Existing Single-Family Dwellings: Single-family dwellings in the RH-1 and RH-2 districts constructed prior to September 2, 1993, may be increased in size without planning board review and shall be exempt from the parking requirements of table 9-1, subsection 9-9-6(b), B.R.C. 1981, if the following conditions are satisfied:

- (1) Prior to the issuance of a building permit, the owner of the property executes a declaration of use, in a form acceptable to the city manager, stating that the dwelling will continue to be used as a single-family dwelling;
- (2) The dwelling contains no more than one kitchen; and
- (3) At least one off-street parking space, in compliance with city standards, is provided.

Ordinance No. 7522 (2007); 7571 (2007)

### **9-8-4. Housing Types and Density Bonuses Within an RMX-2 Zoning District.**

(a) Minimum Number or Housing Types: No person shall develop land in the RMX-2 zoning district with residential uses unless the following housing types are provided:

- (1) For lots or parcels one acre or less, at least one housing type;
- (2) For lots or parcels that are greater than one acre but less than five acres, at least two housing types; and

- (3) For lots or parcels that are five acres or more, at least three housing types. The minimum number of any housing type for lots or parcels that are more than five acres shall be five dwelling units.
- (b) **Maximum Percentage or Any One Housing Type:** No person shall develop a lot or parcel of one acre or more with more than fifty percent of any one housing type in the RMX-2 zoning district.
- (c) **Density Bonus for the Provision or Additional Affordable Housing:** The approving authority may approve a maximum density increase up to ten additional dwelling units per acre if all of the following standards are met:
  - (1) **Site Review Required:** The plan for the development is approved as part of a site review pursuant to section 9-2-14, "Site Review," B.R.C. 1981;
  - (2) **Five Unit Per Acre Bonus:** At least thirty percent of all units that are proposed to be built in the development shall meet the requirements for permanently affordable units set forth in chapter 9-13, "Inclusionary Zoning," B.R.C. 1981, to be eligible for a density bonus for up to five additional dwelling units per acre;
  - (3) **Eight Unit Per Acre Bonus:** At least thirty-five percent of all units that are proposed to be built in the development shall meet the requirements for permanently affordable units set forth in chapter 9-13, "Inclusionary Zoning," B.R.C. 1981, to be eligible for a density bonus for up to eight additional dwelling units per acre;
  - (4) **Ten Unit Per Acre Bonus:** At least forty percent of all units that are proposed to be built in the development shall meet the requirements for permanently affordable units set forth in chapter 9-13, "Inclusionary Zoning," B.R.C. 1981, to be eligible for a density bonus for up to ten additional dwelling units per acre; and
  - (5) **Limits on a Density Bonus:** The approving authority may prohibit or limit an increase in density if the applicant fails to demonstrate that it can satisfy the criteria of approval set forth in section 9-2-14, "Site Review," B.R.C. 1981.

Ordinance No. 7116 (2001)

**9-8-5. Occupancy of Dwelling Units.**

- (a) **General Occupancy Restrictions:** Subject to the provisions of chapter 10-2, "Housing Code," B.R.C. 1981, no persons except the following persons shall occupy a dwelling unit:
  - (1) Members of a family plus one or two roomers. The quarters that the roomers use shall not exceed one-third of the total floor area of the dwelling unit and shall not be a separate dwelling unit;
  - (2) Up to three persons in P, A, RR, RE, and RL zones;
  - (3) Up to four persons in MU, RM, RMX, RH, BT, BC, BMS, BR, DT, IS, IG, IM, and IMS zones; or
  - (4) Two persons and any of their children by blood, marriage, guardianship, including foster children, or adoption.
- (b) **Accessory Dwelling Unit, Owner's Accessory Unit or Limited Accessory Dwelling Unit:** The occupancy of an accessory dwelling unit, owner's accessory unit, or limited accessory dwelling unit, must meet the requirements of subsection 9-6-3(a), B.R.C. 1981.
- (c) **Nonconformity:** A dwelling unit that has a legally established occupancy higher than the occupancy level allowed by subsection (a) of this section may maintain such occupancy of the dwelling unit as a nonconforming use, subject to the following:
  - (1) The higher occupancy level was established because of a rezoning of the property, an ordinance change affecting the property, or other city approval;
  - (2) The rules for continuation, restoration, and change of a nonconforming use set forth in chapter 9-10, "Nonconformance Standards," B.R.C. 1981, and section 9-2-15, "Use Review," B.R.C. 1981;

- (3) Units with an occupancy greater than four unrelated persons shall not exceed a total occupancy of the dwelling unit of one person per bedroom; and
- (4) The provisions of chapter 10-2, "Housing Code," B.R.C. 1981.

Ordinance No. 7522 (2007)

#### **9-8-6. Occupancy Equivalencies for Group Residences.**

The permitted density/occupancy for the following uses shall be computed as indicated below. The density/occupancy equivalencies shall not be used to convert existing uses referenced in this section to dwelling units. The number of allowed dwelling units shall be determined by using section 9-8-1, "Schedule or Intensity Standards," B.R.C. 1981:

- (a) Boarding or Rooming House, Fraternity, Sorority, or Dormitory: Accommodations for three occupants in any boarding or rooming house, fraternity, sorority, or dormitory constitute one dwelling unit.
- (b) Hotel, Motel, and Bed and Breakfast: Three hotel and motel units or three guest rooms in a bed and breakfast constitute one dwelling unit.
- (c) Hostel: Accommodations for three occupants in any hostel constitute one dwelling unit, but the planning board may increase the density of a hostel to four occupants per dwelling unit through a use review as provided in section 9-2-15, "Use Review," B.R.C. 1981.
- (d) Custodial Care and Residential Care Facilities: The occupancy of a custodial care or a residential care facility must meet the requirements of subsection 9-6-3(f), B.R.C. 1981.
- (e) Group Home Facilities: The occupancy of a group home facility must meet the requirements of subsection 9-6-3(d), B.R.C. 1981.
- (f) Cooperative Housing Unit: The occupancy of a cooperative housing unit must meet the requirements of subsection 9-6-3(b), B.R.C. 1981.
- (g) Congregate Care Facility: In congregate care facilities, five sleeping rooms or accommodations without kitchen facilities constitute one dwelling unit, three attached dwelling units constitute one dwelling unit, and one detached dwelling unit constitutes one dwelling unit.
- (h) Bed and Breakfast: In any bed and breakfast, up to twelve guest rooms are permitted, provided the required parking can be accommodated on site and the provisions of subsection 9-6-5(a), B.R.C. 1981, and the density and occupancy requirements of subsection (b) of this section are met.
- (i) Conversion or Rooming Units to Dwelling Units: Rooming units in RM and RH zoning districts that were legally established under prior zoning ordinances and have continued a legal nonconforming use may be converted to dwelling units at a ratio of four rooming units to one dwelling unit.

#### **9-8-7. Density and Occupancy of Efficiency Living Units.**

- (a) Dwelling Unit Equivalents for Efficiency Living Units: For purposes of the density limits of section 9-8-1, "Schedule of Intensity Standards," B.R.C. 1981, two efficiency living units constitute one dwelling unit.
- (b) Dwelling Unit Equivalents for Growth Management Allocations: For purposes of counting dwelling units under the provisions of chapter 9-14, "Residential Growth Management System," B.R.C. 1981, two efficiency living units equal one dwelling unit.
- (c) Dwelling Unit Equivalents for Moderate Income Housing: For purposes of counting dwelling units under the provisions of Ordinance 4638, as amended, "Moderate Income Housing," one efficiency living unit equals one dwelling unit.
- (d) Maximum Occupancy: No more than two persons shall occupy an efficiency living unit.

Ordinance No. 7597 (2008)